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State of California by and through California  
Highway Patrol and Officer Ramon Silva

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

SANDRA KIRKMAN AND  
CARLOS ALANIZ,  
INDIVIDUALLY AND AS  
SUCCESSORS-IN-INTEREST TO  
JOHN ALANIZ, DECEASED,

Plaintiff,

v.

STATE OF CALIFORNIA;  
RAMON SILVA; AND DOES 1-10,  
INCLUSIVE,

Defendant.

Case No.: 2:23-cv-07532-DMG-SSC

**OBJECTION TO PLAINTIFFS'  
EVIDENCE**

Date: February 28, 2025  
Time: 2:00 p.m.  
Courtroom: 8C  
Judge: Hon. Dolly M. Gee

Complaint Filed: July 28, 2023  
Trial Date: April 15, 2025

**I. INTRODUCTION**

Defendant Brian Ellis submits the following objection, as permitted by Federal Rules of Civil Procedure rule 56(c)(2), to evidence proffered in support of plaintiffs' motion for summary judgment:

**Plaintiffs' Exhibit J – Declaration of Plaintiffs' Police Practices Expert Scott Defoe**

Material Objected to:	Grounds for Objection:	Ruling on Objection:
1. Plaintiffs' Exhibit J – Declaration of Scott Defoe, ¶4.	Improper Opinion – FRE 701 Lacks foundation – FRE 702 – 704.	Sustained _____ Overruled _____

Material Objected to:	Grounds for Objection:	Ruling on Objection:
	<p>See <i>Hangarter v. Provident Life &amp; Accident Ins. Co.</i>, 373 F.3d 998, 1016 (9th Cir. 2004) ("an expert witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law"); <i>A.B. v. Cty. of San Diego</i>, 2020 U.S. Dist. LEXIS 136760, at *16 (S.D. Cal. July 31, 2020) (“An expert witness therefore cannot offer testimony as to the reasonableness of an officer's actions and whether his use of force was appropriate under the facts of the case.”) (quoting <i>Sanchez v. Jiles</i>, 2012 U.S. Dist. LEXIS 200372, at *87 (C.D. Cal. June 14, 2012).)</p> <p>Defoe’s opinion as to whether Silva’s actions were reasonable under the specific circumstances he faced is an improper opinion on an ultimate issue of law.</p>	
2. Plaintiffs’ Exhibit J – Declaration of Scott Defoe, ¶6.	<p>Improper Opinion – FRE 701</p> <p>Lacks foundation – FRE 702 – 704.</p> <p>See <i>Hangarter v. Provident Life &amp; Accident Ins. Co.</i>, 373 F.3d 998, 1016 (9th Cir. 2004) ("an expert</p>	<p>Sustained _____</p> <p>Overruled _____</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection:
	<p>witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law"); <i>A.B. v. Cty. of San Diego</i>, 2020 U.S. Dist. LEXIS 136760, at *16 (S.D. Cal. July 31, 2020) (“An expert witness therefore cannot offer testimony as to the reasonableness of an officer's actions and whether his use of force was appropriate under the facts of the case.”) (quoting <i>Sanchez v. Jiles</i>, 2012 U.S. Dist. LEXIS 200372, at *87 (C.D. Cal. June 14, 2012).)</p> <p>Defoe’s opinion as to whether Silva’s actions were reasonable under the specific circumstances he faced is an improper opinion on an ultimate issue of law.</p>	
3. Plaintiffs’ Exhibit J – Declaration of Scott Defoe, ¶8.	<p>Improper Opinion – FRE 701</p> <p>Lacks foundation – FRE 702 – 704.</p> <p>See <i>Hangarter v. Provident Life &amp; Accident Ins. Co.</i>, 373 F.3d 998, 1016 (9th Cir. 2004) ("an expert witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of</p>	<p>Sustained _____</p> <p>Overruled _____</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection:
	<p>law"); <i>A.B. v. Cty. of San Diego</i>, 2020 U.S. Dist. LEXIS 136760, at *16 (S.D. Cal. July 31, 2020) (“An expert witness therefore cannot offer testimony as to the reasonableness of an officer's actions and whether his use of force was appropriate under the facts of the case.”) (quoting <i>Sanchez v. Jiles</i>, 2012 U.S. Dist. LEXIS 200372, at *87 (C.D. Cal. June 14, 2012).)</p> <p>Defoe’s opinion as to whether Silva’s actions were reasonable under the specific circumstances he faced is an improper opinion on an ultimate issue of law.</p>	
<p>4. Plaintiffs’ Exhibit J – Declaration of Scott Defoe, ¶9.</p>	<p>Improper Opinion – FRE 701 Lacks foundation – FRE 702 – 704. See <i>Hangarter v. Provident Life &amp; Accident Ins. Co.</i>, 373 F.3d 998, 1016 (9th Cir. 2004) (“an expert witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law”); <i>A.B. v. Cty. of San Diego</i>, 2020 U.S. Dist. LEXIS 136760, at *16 (S.D. Cal. July 31, 2020) (“An</p>	<p>Sustained _____</p> <p>Overruled _____</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection:
	<p>expert witness therefore cannot offer testimony as to the reasonableness of an officer's actions and whether his use of force was appropriate under the facts of the case.’”) (quoting <i>Sanchez v. Jiles</i>, 2012 U.S. Dist. LEXIS 200372, at *87 (C.D. Cal. June 14, 2012).)</p> <p>Defoe’s opinion as to whether Silva’s actions were reasonable under the specific circumstances he faced is an improper opinion on an ultimate issue of law.</p>	
<p>5. Plaintiffs’ Exhibit J – Declaration of Scott Defoe, ¶10.</p>	<p>Improper Opinion – FRE 701 Lacks foundation – FRE 702 – 704. See <i>Hangerter v. Provident Life &amp; Accident Ins. Co.</i>, 373 F.3d 998, 1016 (9th Cir. 2004) (“an expert witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law”); <i>A.B. v. Cty. of San Diego</i>, 2020 U.S. Dist. LEXIS 136760, at *16 (S.D. Cal. July 31, 2020) (“An expert witness therefore cannot offer testimony as to the reasonableness of an officer's actions and</p>	<p>Sustained _____</p> <p>Overruled _____</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection:
	<p>whether his use of force was appropriate under the facts of the case.’”) (quoting <i>Sanchez v. Jiles</i>, 2012 U.S. Dist. LEXIS 200372, at *87 (C.D. Cal. June 14, 2012).)</p> <p>Defoe’s opinion as to whether Silva’s actions were reasonable under the specific circumstances he faced is an improper opinion on an ultimate issue of law.</p>	
<p>6. Plaintiffs’ Exhibit J – Declaration of Scott Defoe, ¶11.</p>	<p>Improper Opinion – FRE 701 Lacks foundation – FRE 702 – 704. See <i>Hangerter v. Provident Life &amp; Accident Ins. Co.</i>, 373 F.3d 998, 1016 (9th Cir. 2004) (“an expert witness cannot give an opinion as to her legal conclusion, i.e., an opinion on an ultimate issue of law”); <i>A.B. v. Cty. of San Diego</i>, 2020 U.S. Dist. LEXIS 136760, at *16 (S.D. Cal. July 31, 2020) (“An expert witness therefore cannot offer testimony as to the reasonableness of an officer’s actions and whether his use of force was appropriate under the facts of the case.’”) (quoting <i>Sanchez v. Jiles</i>, 2012 U.S.</p>	<p>Sustained _____</p> <p>Overruled _____</p>

Material Objected to:	Grounds for Objection:	Ruling on Objection:
	Dist. LEXIS 200372, at *87 (C.D. Cal. June 14, 2012).)  Defoe's opinion as to whether Silva's actions were reasonable under the specific circumstances he faced is an improper opinion on an ultimate issue of law.	

Dated: February 14, 2025

Dean Gazzo Roistacher LLP

By: /s/ Lee H. Roistacher

Lee H. Roistacher  
Attorneys for Defendants  
State of California by and through  
California Highway Patrol and  
Officer Ramon Silva  
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